

§ 24.24

19 CFR Ch. I (4–1–03 Edition)

(2) The fees as determined under paragraph (d)(1) of this section shall be paid to Customs at the time of presentation of the monthly entry summary. Interest shall accrue on the fees paid monthly in accordance with section 6621 of the Internal Revenue Code of 1986.

(e) *Treatment of fees as Customs duty—*

(1) *Administration and enforcement.* Unless otherwise specifically provided in this chapter, all administrative and enforcement provisions under the Customs laws and regulations, other than those laws and regulations relating to drawback, shall apply with respect to any fee provided for under this section, and with respect to any person liable for the payment of such fee, as if such fee is a Customs duty. For purposes of this paragraph, any penalty assessable in relation to an amount of Customs duty, whether or not any such duty is in fact due and payable, shall be assessed in the same manner with respect to any fee required to be paid under this section.

(2) *Jurisdiction.* For purposes of determining the jurisdiction of any court or agency of the United States, any fee provided for under this section shall be

treated as if such fee is a Customs duty.

[T.D. 91–33, 56 FR 15039, Apr. 15, 1991; 56 FR 25721, June 5, 1991, as amended by T.D. 94–1, 58 FR 69470, Dec. 30, 1993; T.D. 94–32, 59 FR 15046, Mar. 31, 1994; T.D. 95–29, 60 FR 18348, Apr. 11, 1995; T.D. 97–82, 62 FR 51770, Oct. 3, 1997; T.D. 99–1, 63 FR 71372, Dec. 28, 1998; T.D. 99–61, 64 FR 42031, Aug. 3, 1999; T.D. 00–81, 65 FR 68886, Nov. 15, 2000; T.D. 02–14, 67 FR 15098, Mar. 29, 2002]

§ 24.24 Harbor maintenance fee.

(a) *Fee.* Commercial cargo loaded on or unloaded from a commercial vessel is subject to a port use fee of 0.125 percent (.00125) of its value if the loading or unloading occurs at a port within the definition of this section, unless exempt under paragraph (c) of this section or one of the special rules in paragraph (d) of this section is applicable.

(b) *Definitions.* For the purpose of this section:

(1) *Port* means any channel or harbor (or component thereof) in the customs territory of the United States which is not an inland waterway and is open to public navigation and at which Federal funds have been used since 1977 for construction, maintenance or operation. It does not include channels or harbors deauthorized by Federal law before 1985. A complete list of the ports subject to the harbor maintenance fee is set forth below:

PORT CODES, NAMES, AND DESCRIPTIONS OF PORTS SUBJECT TO HARBOR MAINTENANCE FEE

[Section 1402 of Pub. L. 99–662, as amended]

Port code, port name and state	Port descriptions and notations
Alabama	
1901—Mobile	
Alaska	
3126—Anchorage	Includes Seldovia Harbor, and Homer. Movements between these points are intraport.
3106—Dalton Cache	Includes Haines Harbor.
3101—Juneau	Includes only Hoonah Harbor. Fee does not apply to Juneau Harbor.
3102—Ketchikan	Includes Metlakatla Harbor. Fee does not apply to Wades Cove.
3127—Kodiak	
3112—Petersburg	Includes Wrangell Narrows.
3125—Sand Point	Includes Humboldt, King Cove and Iliuliuk Harbor. Fee does not apply to Dutch Harbor.
3115—Sitka	Includes Sergius-Whitstone Narrows.
—St. Paul	
California	
2802—Eureka	Includes Crescent City.
Los Angeles/Long Beach Ports	Includes Ventura, Port Hueneme, Channel Islands Harbor, Santa Barbara, Marina Del Ray, Los Angeles and Long Beach. Movements between these points are intraport.
2709—Long Beach Harbor	
2704—Los Angeles	
2713—Port Hueneme	
2712—Ventura	
2805—Monterrey	
2719—Moro Bay	Includes only Moro Bay.
2501—San Diego	Includes San Diego River and Mission Bay, and Oceanside Harbor.

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[Section 1402 of Pub. L. 99-662, as amended]

Port code, port name and state	Port descriptions and notations
2707—San Luis	
San Francisco Bay Area Ports *	Includes all points inshore of the Golden Gate Bridge on the bays and the straits and on the Napa, Sacramento and San Joaquin Rivers, and on the deep water channels to Sacramento and Stockton. Movements between points above Suisun Bay (Longitude 122 degrees West at Port Chicago) are intraport. Movements between points below Longitude 122 degrees West and the Golden Bridge are all intraport. All other movements are interport.
2813—Alameda	
2830—Carquinez Strait	
2815—Crockett	
2820—Martinez	
2811—Oakland	
2821—Redwood City	
2812—Richmond	
2816—Sacramento	
2809—San Francisco	
2828—San Joaquin	
2829—San Pablo Bay	
2827—Selby	
2810—Stockton	
2831—Suisun Bay	
Connecticut	
0410—Bridgeport	Includes Housatonic River, and Stamford Harbor, and Wilson Point Harbor. Movements between these points are intraport.
0411—Hartford	Includes all points on the Connecticut River between Hartford and Long Island Sound. Movements within this area are intraport.
0412—New Haven	
0413—New London	Includes all points on the Thames River from the mouth to, and including Norwich, CT. Also includes Groton, CT.
Delaware	
Delaware River Ports, DE, NJ, PA * ..	Includes all points on the Delaware River from Trenton to the sea at a line between Cape Henlopen and Cape May, all points on the lower four miles of the Christina River, Delaware, and all points on the lower six miles of Schuylkill River, Pennsylvania. Fee applies to all movements on the Chesapeake and Delaware Canal east of U.S. Highway 13. Includes Absecon Inlet (Atlantic City) and Cold Spring Inlet. Movements within this area are intraport.
1102—Chester, PA	
1107—Camden, NJ	
1113—Gloucester, NJ	
1118—Marcus Hook, PA	
1105—Paulsboro, NJ	
1101—Philadelphia, PA	
1103—Wilmington, DE	
District of Columbia	
Potomac River Ports, DC, MD, VA *	Includes all points on the Potomac River (see Chesapeake Bay Ports map) from a line between Point Lookout and the Little Wicomico River at Chesapeake Bay to and including Washington and Alexandria. Movements between these points are intraport.
5402—Alexandria, VA	
5401—Washington, DC	
Florida	
1807—Boca Grande	
1805—Fernandina Beach	
5205—Fort Pierce	
1803—Jacksonville	
5202—Key West	
5201—Miami	
1818—Panama City	For HMF purposes, also includes Carrabelle and Port St. Joe.
1819—Pensacola	
1816—Port Canaveral	
5203—Port Everglades	
Tampa Bay Ports *	Includes Alafia River, Port Manatee, Port Sutton, Port Tampa Weedon Island, and all other points on or approached using the Tampa Harbor Channel inshore of the Sunshine Skyway Bridge. Movements between these points are intraport.
1814—St Petersburg	
1801—Tampa	
5204—West Palm Beach	
Georgia	
1701—Brunswick	Includes St. Marys River.
1703—Savannah	
Hawaii	
3202—Hilo	Includes Kawaihae.
3201—Honolulu	Includes Barbers Point Harbor.
3203—Kahului	Includes Kaunakakai Harbor.
3204—Nawiliwili-Port Allen	Includes both Nawiliwili and Port Allen.

PORT CODES, NAMES, AND DESCRIPTIONS OF PORTS SUBJECT TO HARBOR MAINTENANCE FEE—
Continued

[Section 1402 of Pub. L. 99–662, as amended]

Port code, port name and state	Port descriptions and notations	
Illinois		
Southern Lake Michigan Ports 3901—Chicago, IL 3904—East Chicago, IN 3905—Gary, IN	Includes Waukegan Harbor, IL, Indiana Harbor (East Chicago, IN) Calumet Harbor, the Chicago River (up to the North Avenue Bridge) and the Chicago Harbor. Fee applies at the ports of Michigan City and Burns Waterway Harbor, IN. Fee does not apply at Buffington Harbor or Gary Harbor. Movements within an area from Waukegan, IL to Michigan City, IN are intraport.	
Indiana		
Southern Lake Michigan Ports 3901—Chicago, IL 3904—East Chicago, IN 3905—Gary, IN		
Louisiana		
2017—Lake Charles	Includes all points on the Calcasieu River and Pass. Also includes Mermentau River from Catfish Point Control Structure to the Gulf.	
Mississippi River Ports/Baton Rouge and Vicinity * 2004—Baton Rouge 2010—Gramercy	Includes all river points from River Mile 115 Above Head of Passes (AHP) at the St. Charles Parish-Jefferson Parish line, to River Mile 233.9 AHP at Baton Rouge. Includes Destrehan, Good Hope, and St. Rose. Movements between these points are intraport.	
Mississippi River Ports/New Orleans and Vicinity * 2002—New Orleans 2005—Port Sulphur	Includes all river points from River mile 115 Above Head of Passes (AHP) to Mile 21.6 Below Head of Passes (BHP) via Southwest Pass and to Mile 14.7 BHP via South Pass. Also includes all points on the Inner Harbor Navigation Canal, Avondale, and the Mississippi River Gulf Outlet. Movements between these points are intraport.	
2001—Morgan City*	Includes Atchafalaya River from Morgan City to the Gulf. Includes all points on the Houma Navigation Canal, and points on the Gulf Intra-coastal Waterway between Mile 49.8 West and Mile 107.0 West. Movements between these points are intraport.	
Maine		
0102—Bangor 0111—Bath 0131—Portsmouth, NH 0132—Belfast	Includes all Penobscot River points (Bucksport and Winterport), and Georges River. Fee does not apply at Belfast, Searsport, Sandy Point, or Castine Harbor.	
0101—Portland		
Maryland		
Chesapeake Bay Ports, MD* 1303—Baltimore 1302—Cambridge 1301—Annapolis	Includes all Maryland points on the Chesapeake Bay and its tributary waters except for the Potomac Rivers. Also includes the Waterway from the Delaware River to the Chesapeake Bay west of U.S. 13 highway bridge. Movements between these points are intraport. (Also see Chesapeake Bay Ports: VA.)	
Massachusetts		
0401—Boston	Includes all of the Port of Boston inshore of Castle Island on the Inner Harbor and Chelsea and Mystic River and all points on the Weymouth Fore, and Town and Black Rivers, and Dorchester Bay. Also includes Plymouth Harbor. Movements between points on the Saugus River in the North and Plymouth Harbor in the South are intraport.	
0404—Gloucester 0407—Fall River		
Michigan		
3843—Alpena	Fee does not apply to Stoneport.	
Monroe/Detroit/Harbor Beach 3801—Detroit 3802—Port Huron	Includes Monroe, Detroit, and the Detroit River, St. Clair River, Port Huron and all points on the Rouge and Black Rivers. Fee also applies at Harbor Beach, MI. All movements within this area between Monroe and Harbor Beach, MI are intraport.	
3808—Escanaba	Fee applies at all points on the little Bay de Noc above Escanaba, including Gladstone and Kipling. Movements within an area from Escanaba to the Mackinac Bridge are intraport. Fee does not apply at Escanaba.	
South Central Lake Superior Ports ... 3809—Marquette 3842—Presque Isle	Includes Ontonagon Harbor, all points on the Harbor, all points on the Keweenaw Waterway, Presque Isle Harbor and Marquette and Grand Marais. Movements between all Michigan ports on Lake Superior are intraport.	
Eastern Lake Michigan Ports 3815—Muskegon 3816—Grand Haven 3844—Ferrysburg	Fee applies at Charlevoix, Frankfort, Portage Lake, Manatee, Ludington, Pentwater Harbor, Ferrysburg, White Lake Harbor, Muskegon, Grand Haven, and South Haven, Holland, and St. Joseph/Benton Harbor, MI. All movements between Eastern Lake Michigan ports are intraport.	
Upper Lake Huron Ports 3803—Sault Ste. Marie 3804—Saginaw-Flint-Bay City 3843—Alpena	Includes all points on the St. Mary's River, the ports of Cheyboygan, Alpena, Bay City, and Saginaw River. Does not include Alabaster, Cacit, Port Dolomite, Port Inland, Port Gypsum or Stoneport. Movements within an area from Sault Ste. Marie and the Saginaw River are intraport.	

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[Section 1402 of Pub. L. 99-662, as amended]

Port code, port name and state	Port descriptions and notations	
Minnesota		
Duluth/Superior Area Ports	Fee applies at Two Harbors and Duluth, MN, and Superior, WI. Fee also applies at Ashland and Port Wing, WI and Grand Marais, MN. Fee does not apply at Taconite, or Silver Bay, MN. All movements between Silver Bay, MN and Ashland, WI are considered intraport.	
3601—Duluth		
3602—Ashland		
3608—Superior		
3614—Silver Bay		
Mississippi		
1902—Gulfport	Does not include Bienville.	
1903—Pascagoula		
New Hampshire		
0131—Portsmouth, NH		
New Jersey		
Delaware River Ports, DE, NJ, PA * ..	Includes all points on the Delaware River from Trenton to the sea at a line between Cape Henlopen and Cape May, all points on the lower four miles of the Christina River, Delaware, and all points on the lower six miles of the Schuylkill River, PA. Fee applies to all movements on the Chesapeake and Delaware Canal east of U.S. Highway 13. Includes Absecon Inlet (Atlantic City) and Cold Spring Inlet. Movements between these points are intraport.	
1102—Chester, PA		
1107—Camden, NJ		
1113—Gloucester, NJ		
1118—Marcus Hook, PA		
1105—Paulsboro, NJ		
1101—Philadelphia, PA		
1103—Wilmington, DE		
1003—Newark		See New York Harbor.
1004—Perth Amboy		See New York Harbor.
New York		
New York Harbor, NY, NJ *	Includes all points in New York and New Jersey with the Port of New York on the waters inshore of a line between Sandy Hook and Rockaway Point and south of Tappan Zee Bridge on the Hudson and west of Throgs Neck Bridge of the East River. Movements between these and all points within the New York Port District boundaries described in New York Code (Chapter 154, Laws of New York, 1921), are intraport.	
1001—New York		
1003—Newark		
1004—Perth Amboy		
1002—Albany *	Includes all points on the Hudson River between Tappan Zee Bridge and the Troy Lock and Dam. Movements between points within this area are intraport.	
0901—Buffalo-Niagara Falls	Includes Buffalo Harbor, Black Rock Channel and Tonawanda Harbor, and all points on Cattaraugus Creek, and Dunkirk Harbor. Movements between these points are intraport.	
0706—Cape Vincent		
0701—Ogdensburg		
0904—Oswego		
0903—Rochester		
0905—Sodus Point		
North Carolina		
1511—Beaufort-Morehead City	Includes Ocracoke Inlet. Movements within this area are intraport.	
1501—Wilmington	Includes all points on the Cape Fear and Northeast Cape Fear Rivers inshore of the Atlantic Ocean entrance. Movements within this area are intraport.	
Ohio		
Lake Erie Ports	Includes Toledo, Sandusky, Huron, Lorain, Cleveland, Fairport, Ashtabula, Conneaut and Erie. Movements between these points are intraport. Fee does not apply at Marblehead.	
4108—Ashtabula		
4101—Cleveland		
4109—Conneaut		
4106—Erie, PA		
4111—Fairport		
4117—Huron		
4121—Lorain		
4105—Toledo-Sandusky		
Oregon		
Columbia River Ports, OR, WA	Includes all points on the Columbia River downstream of Bonneville Dam, and all points on the Willamette River downstream of River Mile 21. Includes the Multnomah Channel, the Skipanon Channel, and Oregon Slough. Movements between points within this area are intraport.	
2901—Astoria, OR		
2904—Portland, OR		
2909—Kalama, WA		
2905—Longview, WA		
2908—Vancouver, WA	Includes Port Orford, the Siuslaw River, and Umpaqua River. Movements between these points are intraport.	
2903—Coos Bay		
2902—Newport	Includes Tillamook Bay, and Yaguina Bay and Harbor.	

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Continued

[Section 1402 of Pub. L. 99–662, as amended]

Port code, port name and state	Port descriptions and notations	
Pennsylvania		
Delaware River Ports, DE, NJ, PA * .. 1102—Chester, PA 1107—Camden, NJ 1113—Gloucester, NJ 1118—Marcus Hook, PA 1105—Paulsboro, NJ 1101—Philadelphia, PA 1103—Wilmington, DE	Includes all points on the Delaware River from Trenton to the sea at a line between Cape Henlopen and Cape May, all points on the lower four miles of the Christina River, Delaware, and all points on the lower six miles of the Schuylkill River, Pennsylvania. Fee applies to all movements on the Chesapeake and Delaware Canal east of U.S. Highway 13. Includes Absecon Inlet (Atlantic City) and Cold Spring Inlet. Movements between these points are intraport.	
Puerto Rico		
4907—Mayaguez 4908—Ponce 4909—San Juan		Does not include Guayanilla and Tallaboa. Includes Arecibo.
Rhode Island		
0502—Providence		Federal project limit: Providence River East of Prudence Island just above Dyer Island and ending at Hurricane Barrier at Fox Point. The areas west of Prudence Island, including Quonset Point, Patience Island, Warwick Neck and Greenwich Bay are not subject to the fee.
South Carolina		
1601—Charleston 1602—Georgetown	Includes the Ashley River, Cooper River, Shipyard River, and Port Royal Harbor. Movements within this area are intraport.	
Texas		
2301—Brownsville 5312—Corpus Christi 5311—Freeport Galveston Bay Ports *	Includes Port Isabel and Brazos Island Harbor. Movements between these points are intraport. Includes Port Bolivar and all points on Galveston Bay in Galveston County. Movements between points within this area are intraport.	
5310—Galveston 5306—Texas City 5301—Houston *		Includes Bayport, Baytown, and all other points on or accessed via the Houston Ship Channel from the Liberty/Chambers county line on the north to the Chambers/Galveston county line to the south. Movements within this area are intraport.
5313—Port Lavaca Sabine Ports * 2104—Beaumont 2103—Orange 2101—Port Arthur 2102—Sabine	Includes Matagorda Ship Channel. Includes Port Neches, Sabine Pass and all other points on the Sabine-Neches Waterway. Movements between these points are intraport.	
Virginia		
Potomac River Ports, DC, MD, VA * 5402—Alexandria, VA 5401—Washington, DC Chesapeake Bay Ports,VA * 1406—Cape Charles 1402—Newport News 1401—Norfolk	Includes all points on the Potomac River (see Chesapeake Bay Ports map) from a line between Point Lookout and the Little Wicomico River at Chesapeake Bay to and including Washington and Alexandria. Movements between these points are intraport. Includes all Virginia points on the Chesapeake Bay inshore of a line from Cape Henry to Cape Charles, and tributary waters including the ports of Hampton Roads. Does not include the Potomac River or the James River above the James River Bridge at Newport News. Movements between points within this area are intraport. (Also see Chesapeake Bay Ports, MD.)	
James River Ports, VA 1408—Hopewell 1404—Richmond/Petersburg		Includes all points on the James River above the James River Bridge at Newport News. Movements between these points are intraport.
Washington		
3003—Aberdeen	Includes Grays Harbor and Yaguina Bay and Harbor. Movements between these points are intraport.	

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Continued

[Section 1402 of Pub. L. 99-662, as amended]

Port code, port name and state	Port descriptions and notations
Puget Sound Ports, WA*	Fee applies only at ports listed. Bellingham includes all of Bellingham Bay and tributary waters north of Chuchanut Bay on the east, and Portage Island on the west. Port Everett includes all of Port Dardner (an arm of Possession Sound) between Elliott Point on the south to, and including, the Snahomish River on the north. The port of Olympia includes all points on Budd Inlet extending from Cooper and Dofflemeyer Point on the north to, and including, the city of Olympia on the south. The fee applies to all points within the Inner Harbor of the Port of Seattle, including Salmon Bay, Lakes Union and Washington, the Lake Washington Ship Canal, and Kenmore Navigation Channel. Includes all points on Elliott Bay and tributary waters between West Point on the north and Duwamish Head on the south. Fee applies at all points within Tacoma Harbor including all of Commensment Bay and tributary waters between Browns Point on the east and Point Defiance on the west. Movements between these ports and any other U.S. points on Puget Sound or the Strait of Juan de Fuca east of Cape Flattery are intraport.
3005—Bellingham	
3006—Everett	
3007—Port Angeles	
3001—Seattle	
3002—Tacoma	
3026—Olympia	
3010—Anacortes	Includes only access channel and berthing areas adjacent to Anacortes Industrial Park off 30th Street.
Columbia River Ports, WA, OR ..	Includes all points on the Columbia River downstream of Bonneville Dam, and all points on the Willamette River downstream of River mile 21. Includes the Multnomah Channel, the Skipanon Channel, and Oregon Slough. Movements between points within this area are intraport.
2901—Astoria, OR	
2904—Portland, OR	
2909—Kalama, WA	
2905—Longview, WA	
2908—Vancouver, WA	
Wisconsin	
3602—Ashland	See Duluth/Superior Area Ports, MN.
Green Bay/Marinette Area Ports	Fee applies to all movements between points along the Sturgeon Bay and Lake Michigan Ship Canal. Fee also applies to Green Bay, Oconto, and Menominee/Marinette. Movements between points from Menominee and points along the Sturgeon Bay and Lake Michigan Ship Canal are intraport.
3703—Green Bay	
3702—Marinette	
Western Lake Michigan Ports	Includes the ports of Milwaukee, Racine, and Sheboygan, MN. All movements between these points are intraport.
3701—Milwaukee	
3708—Racine	
3707—Sheboygan	

*Indicates that a map of this area is available from the Budget Division, Office of Finance, U.S. Customs Service, Room 6328, 1301 Constitution Ave., NW., Washington, DC 20229; tel. 202-927-0034.

(2) *Commercial cargo* means, unless exempted by paragraphs (c) (1) and (2) of this section, merchandise transported on a commercial vessel and passengers transported for compensation or hire. Whenever the term “cargo” is used, it means merchandise, but not passengers.

(3) *Commercial vessel* means, unless exempted by paragraph (c)(3) of this section, any vessel used in transporting commercial cargo by water for compensation or hire, or in transporting commercial cargo by water in the business of the owner, lessee or operator of the vessel.

(4) *Ferry* means any vessel which arrives in the U.S. on a regular schedule during its operating season at intervals of at least once each business day.

(5) *Humanitarian assistance* is considered to be assistance which is required for the survival of the affected population in cases of, or in preparation for,

emergencies of all kinds. Such relief assistance would include, but is not limited to: food items, shelter, clothing, basic home utensil kits, and small electric generators.

(6) *Development assistance* is considered to be assistance similar to that provided for pursuant to chapter 1 of part 1 of the 1961 Foreign Assistance Act, as amended, 22 U.S.C. 2151-1(b). Such development assistance would include, but is not limited to, aid to promote: Agricultural productivity, reduction of infant mortality, reduction of rates of unemployment and underemployment, and an increase in literacy.

(7) *Non-profit* means an organization or cooperative exempt from income taxation pursuant to 26 U.S.C. 501(c)(3).

(c) *Exemptions.* The following are not subject to the fee:

(1) Bunker fuel, ship’s stores, sea stores and vessel equipment.

(2) Fish or other aquatic animal life, caught and not previously landed on shore.

(3) Ferries engaged primarily in the transport of passengers and their vehicles between points within the U.S. or between the U.S. and contiguous countries.

(4) Certain loadings and unloadings of cargo in Alaska, Hawaii, or the possessions of the U.S. as defined in this paragraph.

(i) Descriptions of exempt loadings/unloadings:

(A) Cargo loaded on a vessel in a port in the U.S. mainland for transportation to Alaska, Hawaii, or any possession of the U.S. for ultimate use or consumption in Alaska, Hawaii, or any possession of the U.S.

(B) Cargo loaded on a vessel in Alaska, Hawaii, or any possession of the U.S. for transportation to the U.S. mainland for ultimate use or consumption in the U.S. mainland.

(C) Cargo described in paragraph (c)(4)(i)(A) of this section unloaded in Alaska, Hawaii, or any possession of the U.S.

(D) Cargo described in paragraph (c)(4)(i)(B) of this section unloaded in the U.S. mainland.

(E) Cargo loaded on a vessel in Alaska, Hawaii, or a possession of the U.S. and unloaded in the state or possession in which loaded.

(ii) For purposes of paragraph (c)(4) of this section:

(A) *Cargo* does not include crude oil with respect to Alaska.

(B) *U.S. mainland* means the continental U.S. excluding Alaska.

(C) *Possessions* of the U.S. means Puerto Rico, Guam, American Samoa, U.S. Virgin Islands, the Northern Mariana Islands and the Pacific Trust Territories.

(5) Commercial vessels, if any fuel used to move the cargo is subject to the Inland Waterway Fuel Tax (See section 4042, Internal Revenue Code of 1954, as amended by Pub. L. 95-502 and Pub. L. 99-662).

(6) Cargo entering the U.S. in bond for transportation and direct exportation to a foreign country, unless, with respect to cargo exported to Canada or Mexico;

(i) The Secretary of the Treasury determines that Canada or Mexico has imposed a substantially equivalent port use fee on commercial vessels or commercial cargo using ports of their countries; or

(ii) A study made pursuant to the Water Resources Development Act of 1986 (Pub. L. 99-662) finds that the fee is not likely to cause significant economic loss to a U.S. port or diversion of a significant amount of cargo to a port in a contiguous country.

(7) Cargo or vessels of the U.S. or any agency or instrumentality of the U.S.

(8) Cargo owned or financed by non-profit organizations or cooperatives which is certified by the U.S. Customs Service as intended for use in humanitarian or development assistance overseas, including contiguous countries.

(i) The donated cargo is required to be certified as intended for use in humanitarian or development assistance overseas by Customs. Subsequent to the payment of the fee, a request for refund should be made on an Amended Quarterly Summary Report, Customs Form 350, and forwarded to the Office of Finance, U.S. Customs Service, Headquarters, Washington, DC 20229. To permit certification, supporting evidence that the entity donating the cargo is a nonprofit organization or cooperative should be included along with supporting evidence that the cargo was intended for humanitarian or development assistance overseas. A description of the cargo listed in the shipping documents and a brief summary of the intended use of the goods, if such use is not reflected in the documents, are acceptable evidence for certification purposes. Copies of the Harbor Maintenance Fee Quarterly Summary Report, Customs Form 349, should be attached for each quarter that a refund is requested.

(ii) Each nonprofit organization or cooperative claiming the exemption under this subpart shall maintain documentation pertaining to the exemption for a period of 5 years. The documentation shall be made available for inspection by Customs in accordance with the provisions of §§162.1a through 162.1i of this chapter.

(d) *Special rules*—(1) *Intraport*. The fee is not to be assessed on the mere movement of commercial cargo within a port.

(2) *Same vessel, same cargo*. If a fee is assessed when cargo is loaded on a vessel, the unloading of the same cargo from that vessel is not subject to the fee. If a fee is assessed when cargo is unloaded from a vessel, the reloading of the same cargo on that vessel is not subject to the fee.

(3) *De minimis for individual shipments*. The fee shall not be assessed on loadings or unloadings of cargo in which:

(i) *For imported cargo*: The shipment would be entitled to be entered under informal entry procedures as provided for in §143.21 of this chapter.

(ii) *For domestic cargo*: The value of the shipment does not exceed \$1,000.

(4) *De minimis for quarterly payments*. Quarterly payment is not required if the total value of all shipments for which a fee was assessed for the quarter does not exceed \$10,000.

(e) *Collections, supplemental payments, and refunds*—(1) *Domestic vessel movements*—(i) *Time and place of liability*. Subject to the exemptions and special rules of this section, when cargo is loaded on a commercial vessel at a port within the definition of this section to be transported between ports in the U.S. or is unloaded from a commercial vessel at a port within the definition of this section after having been transported between ports in the U.S., the shipper (the person or corporation who pays the freight) of that cargo is liable for the payment of the port use fee at the time of unloading. The fee will be imposed only once on a movement pursuant to paragraph (d)(2) of this section. The fee is to be based upon the value of the cargo as determined by standard commercial documentation where such documentation is available. Otherwise, the value is to be determined under 19 U.S.C. 1401a as if it were imported merchandise. The Vessel Operation Report (Army Corps of Engineers Form 3925) is to be completed and submitted to the Army Corps of Engineers in accordance with the procedures set forth in 33 CFR Ch. II, part 207. The shipper's name, either the internal revenue service or social security number of the shipper and the tax

exemption code (as it appears in the Vessel Operation Report instructions) claimed for the shipment are to be included on the Vessel Operation Report.

(ii) *Fee payment*. The shipper whose name appears on the Vessel Operation Report shall pay the accumulated fees on a quarterly basis in accordance with paragraph (f) of this section by mailing a check or money order payable to the U.S. Customs Service for all fees for which he is liable for the quarter and a Harbor Maintenance Fee Quarterly Summary Report, Customs Form 349, to U.S. Customs Service, P.O. Box 70915, Chicago, Illinois 60673-0915.

(2) *Import vessel movements*—(i) *Time and place of liability*. Subject to the exemptions and special rules of this section, when imported cargo is unloaded from a commercial vessel at a port within the definition of this section, and destined for either consumption, warehousing, or foreign trade zone admission, the importer of that cargo, or in the case of foreign trade zones, the person or corporation responsible for bringing merchandise into the zone, is liable for the payment of the port use fee at the time of unloading. The fee is based on the U.S. Customs appraised value of the shipment pursuant to 19 U.S.C. 1401a, the same basis as that used for duty payment. The fee shall be collected on all formal entries, including warehouse entries and temporary importation under bond entries, and admissions into foreign trade zones.

(ii) *Fee payment*. The port use fee on unloading of imported cargo shall be paid in accordance with the normal Customs collection procedures set forth in §§24.1 and 141.1 of this chapter, except as provided for merchandise admitted into foreign trade zones in paragraph (e)(2)(iii) of this section. The U.S. Customs Entry Summary Form (Customs Form 7501), is to be completed with the amount of the fee shown and identified on the form. The fee shall be paid by the importer by adding it to any normal duty, tax or fee payable at the time of formal entry processing.

If no other duty, tax, or fee is imposed on the shipment, and the fee exceeds \$3, a check or money order for the amount of the fee shall be attached to the Customs entry forms submitted.

(iii) *Foreign trade zones.* In cases where imported cargo is unloaded from a commercial vessel at a port within the definition of this section and admitted into a foreign trade zone, the applicant for admission (the person or corporation responsible for bringing merchandise into the zone) who becomes liable for the fee at the time of unloading pursuant to paragraph (e)(3)(i) of this section, shall pay all fees for which he is liable on a quarterly basis in accordance with paragraph (f) of this section by mailing a check or money order payable to the U.S. Customs Service for all fees for the quarter and a Harbor Maintenance Fee Quarterly Summary Sheet, Customs Form 349, to U.S. Customs Service, P.O. Box 70915, Chicago, Illinois 60673-0915. Fees shall be paid for all shipments unloaded and admitted to the zone, or in the case of direct deliveries under §§146.39 and 146.40 of this chapter, unloaded and received in the zone under the bond of the foreign trade zone operator.

(3) *Passengers*—(i) *Time and place of liability.* Subject to the exemptions and special rules of this section, when a passenger boards or disembarks a commercial vessel at a port within the definition of this section, the operator of that vessel is liable for the payment of the port use fee. The fee is to be based upon the value of the actual charge for transportation paid by the passenger or on the prevailing charge for comparable service if no actual charge is paid. The vessel operator on each cruise is liable only once for the port use fee for each passenger.

(ii) *Fee payment.* The operator of the passenger-carrying vessel shall pay the accumulated fees on a quarterly basis in accordance with paragraph (f) of this section by mailing a check or money order payable to the U.S. Customs Service for all fees for which he is liable for the quarter and a Harbor Maintenance Fee Quarterly Summary Report, Customs Form 349.

(4) *Refunds and supplemental payments*—(i) *General.* To make supplemental payments or seek refunds of harbor maintenance fees paid relative to the unloading of imported cargo, the procedures applicable to supplemental payments or refunds of ordinary duties

must be followed. To seek refunds of quarterly-paid harbor maintenance fees pertaining to export movements, the procedures set forth in paragraph (e)(4)(iv) of this section must be followed. To make supplemental payments on any quarterly-paid harbor maintenance fee or seek refunds of quarterly-paid harbor maintenance fees pertaining to other than export movements, the procedures set forth in paragraph (e)(4)(iii) must be followed. The address to mail supplemental payments of quarterly-paid harbor maintenance fees is: U.S. Customs Service, P.O. Box 70915, Chicago, Illinois 60673-0915. The address to mail requests for refunds of quarterly-paid harbor maintenance fees is: U.S. Customs Service, HMT Refunds, 6026 Lakeside Blvd., Indianapolis, IN, 46278.

(ii) *Time limit for refund requests.* A refund request must be received by Customs within one year of the date the fee for which the refund is sought was paid to Customs or, in the case of fees paid relative to imported merchandise admitted into a foreign trade zone and subsequently withdrawn from the zone under 19 U.S.C. 1309, within one year of the date of withdrawal from the zone.

(iii) *For fees paid on other than export movements.* If a supplemental payment is made for any quarterly-paid harbor maintenance fee or a refund is requested relative to quarterly fee payments previously made regarding the loading or unloading of domestic cargo, the unloading of cargo destined for admission into a foreign trade zone, or the boarding or disembarking of passengers, the refund request or supplemental payment must be accompanied by a Harbor Maintenance Fee Amended Quarterly Summary Report, Customs Form 350, along with a copy of the Harbor Maintenance Fee Quarterly Summary Report, Customs Form 349, for the quarter(s) covering the payment to which the refund request or supplemental payment relates. A request for a refund must specify the grounds for the refund.

(iv) *For fees paid on export movements.* Customs will process refund requests relative to fee payments previously made regarding the loading of cargo for export as follows:

(A) *Refund request.* For export fee payments made prior to July 1, 1990, the exporter (the name that appears on the SED or equivalent documentation authorized under 15 CFR 30.39(b)) or its agent must submit a letter of request for a refund specifying the grounds for the refund and identifying the specific payments made. The letter must be accompanied by the proof of payment set forth in paragraph (e)(4)(iv)(C) of this section. For export fee payments made on or after July 1, 1990, supporting documentation is not required with the refund request. For these payments, the request must specify the grounds for the refund, identify the quarters for which a refund is sought, and contain the following additional information: the exporter's name, address, and employer identification number (EIN); the name and EIN of any freight forwarder or other agent that made export fee payments on the exporter's behalf; and a name, telephone number, and facsimile number of a contact person.

(B) *Refund procedure—(1) Processing order; power of attorney.* Generally, a properly filed refund request will be processed in the chronological order of its receipt. A refund request filed on behalf of an exporter by an agent other than a freight forwarder must be supported by a power of attorney or letter signed by the exporter authorizing the representation. A refund request filed by an agent other than a freight forwarder that lacks a power of attorney or authorization letter will not be processed unless one or the other is submitted. A refund request filed by a freight forwarder does not require a power of attorney or authorization letter to be processed; however, if Customs has not received a power of attorney or authorization letter for an exporter covered in a freight forwarder's refund request and that exporter has filed a separate refund request on its own behalf, that freight forwarder's entire refund request will be removed from the chronological processing order and processed after the processing of all exporter refund requests is completed.

(2) *HMT Payment Report and Report/Certification.* In processing a request for a refund, Customs will conduct a search of its records (Customs elec-

tronic database and paper document sources) and produce for issuance to the exporter (or its agent, as appropriate) a "Harbor Maintenance Tax Payment Report" (HMT Payment Report) that lists all payments reflected in those records for the entire period the fee was in effect. Customs will also produce for issuance to the exporter a "Harbor Maintenance Tax Refund Report and Certification" (Report/Certification) that lists all payments supported by paper documentation, either retained by Customs (relative to payments made on and after July 1, 1990) or submitted by the exporter with its refund request (relative to payments made at any time the fee was in effect). Where a refund request was filed on the exporter's behalf by an agent other than a freight forwarder, a power of attorney or authorization letter must be filed with Customs before Customs will issue these reports. The Report/Certification sets forth the total amount of the refund that Customs believes it owes the exporter for the payments listed in that report (minus any previous refunds). Pre-July 1, 1990, payments listed in the HMT Payment Report for which paper documentation has not been provided by the exporter will not be listed in the Report/Certification. The exporter has 120 days from the date the HMT Payment Report and the Report/Certification are issued (the 120-day period) to sign and return to Customs the Report/Certification in order to receive the refund set forth in that report and/or to submit to Customs a request for a Revised Report/Certification. Where the exporter chooses to receive the refund set forth in the Report/Certification, the exporter must sign and return the report to Customs. Customs will issue the refund upon receipt of the signed report.

(3) *Revised Report/Certification.* A request for a Revised Report/Certification must be accompanied by documentation to support any payments not listed in the Report/Certification or corrections to listed payments. See paragraph (e)(4)(iv)(C) of this section regarding acceptable documentation. If an exporter (or its agent, as appropriate) both signs and returns to Customs a Report/Certification and requests a Revised Report/Certification,

Customs will not, when reviewing the request for a Revised Report/Certification, approve for refund any corrections to the payments that were listed in the signed Report/Certification; Customs will, however, in that circumstance, consider approving any additional payments that were not listed in the signed Report/Certification. If an exporter does not sign and return to Customs a Report/Certification, but requests a Revised Report/Certification, Customs will consider approving for refund corrections to the payments listed in the Report/Certification and additional payments. Where the exporter requests a Revised Report/Certification, Customs will review the documentation submitted with the request, make a determination, and, within 60 days of the request's receipt, issue a Revised Report/Certification that lists all payments approved for refund and the total amount of the refund owed. In order to receive the refund set forth in a Revised Report/Certification, the exporter must sign and return it to Customs. Customs will issue the refund upon its receipt of the signed report. An exporter, within the 120-day period, may submit additional requests for a Revised Report/Certification, with appropriate documentation, to cover any payments not approved for refund in a Revised Report/Certification previously issued by Customs.

(4) *Protest.* For purposes of filing a protest under 19 U.S.C. 1514 (and 19 CFR part 174), unless issuance of a Revised Report/Certification is pending, any payments not approved for refund in a Report/Certification or a Revised Report/Certification issued by Customs within the 120-day period will be considered denied as of the date the period expires; a protest covering such payments must be filed within 90 days of that date. For any payments not approved for refund in a Revised Report/Certification issued after expiration of the 120-day period, a protest may be filed within 90 days of that report's issuance.

(5) *Significance of signed Report/Certification and Revised Report/Certification.* A Report/Certification or Revised Report/Certification must be signed by an officer of the company duly authorized to bind the company or by an agent (such

as a broker or freight forwarder) representing the exporter in seeking a refund under this section. A Report/Certification or Revised Report/Certification signed by the exporter or its agent and received by Customs constitutes the exporter's agreement that the amount of the refund set forth in the report is accurate and Customs payment of that refund amount is in full accord and satisfaction of all payments approved for refund in the report. The signed Report/Certification or Revised Report/Certification also represents the exporter's release, waiver, and abandonment of all claims, excluding claims for interest, against the Government, its officers, agents, and assigns for costs, attorney fees, expenses, compensatory damages, and exemplary damages arising out of the payments approved for refund in the report. When an agent, including a freight forwarder, signs a Report/Certification or Revised Report/Certification on behalf of an exporter(s), the agent certifies that it is acting on the exporter's behalf and will use due diligence to forward the refund to the exporter, and, in the event the agent does not forward the refund to the exporter, will notify Customs and return the refund to Customs within one year of its receipt of the refund. Upon receipt of the signed Report/Certification or Revised Report/Certification, Customs releases, waives, and abandons all claims other than fraud against the exporter, its officers, agents, or employees arising out of all payments approved for refund in the report.

(C) *Documentation.* For payments made prior to July 1, 1990, supporting documentation is required to obtain a refund and must be submitted in accordance with paragraphs (e)(4)(iv)(A) and/or (B)(3) of this section. For payments made on and after July 1, 1990, supporting documentation is not required to obtain a refund, unless the exporter seeks to prove corrections of payments listed in the Report/Certification (if the exporter did not sign and return it to Customs) and/or additional payments not listed in a Report/Certification, in accordance with paragraph (e)(4)(iv)(B)(3) of this section. The supporting documentation that Customs will accept as establishing entitlement

to a refund, whether submitted with a refund request or a request for a Revised Report/Certification, is whichever of the following documents Customs accepted with the payment at the time it was made: a copy of the Export Vessel Movement Summary Sheet; where an Automated Summary Monthly Shipper's Export Declaration was filed, a copy of a letter containing the exporter's identification, its employer identification number (EIN), the Census Bureau reporting symbol, and, the quarter for which the payment was made; or a copy of a Harbor Maintenance Fee Quarterly Summary Report, Customs Form 349, for the quarter covering the refund requested. Customs also will consider other documentation offered as proof of payment of the fee, such as cancelled checks and/or affidavits from exporters attesting to the fact that all quarterly harbor maintenance tax payments made by the exporter were made exclusively for exports, and will accept that other documentation as establishing entitlement for a refund only if it clearly proves the payments were made for export harbor maintenance fees in the amounts sought to be refunded and were made by the party requesting the refund or the party on whose behalf the refund was requested.

(f) *Quarterly payments.* All quarterly payments required by this section must be received no later than 31 days after the close of the quarter being paid. Quarterly periods end on the last day of March, June, September, and December.

(g) *Maintenance of records.* Each importer, applicant for admission of cargo into a foreign trade zone, shipper and cruise vessel operator affected by this section shall maintain all such documentation necessary for Customs to verify the accuracy of fee computations and to otherwise determine compliance under the law. Such documentation shall be maintained for a period of 5 years from the date of fee calculation. The affected parties shall advise the Director, Accounting Services—Accounts Receivable, P.O. Box 68903, Indianapolis, Indiana 46268, of the name, address, and telephone number of a responsible officer who shall be able to verify any records re-

quired to be maintained under this paragraph. The Director of Accounting Services, shall be promptly notified of any changes in the identifying information submitted. The records shall be maintained and made available for inspection, copying, reproduction or other official use by Customs in accordance with the provisions of part 163 of this chapter.

(h) *Penalties/liquidated damages for failure to pay harbor maintenance fee and file summary sheet.* (1) *Amount of penalty or damages.* Any party (including the importer, or shipper) who fails to pay the harbor maintenance fee and file the summary sheet at the time specified by regulation shall incur a penalty equal to the amount of liquidated damages assessable for late filing of an entry summary pursuant to the provisions of §142.15 of this chapter. An importer shall be liable for payment of liquidated damages under the basic importation and entry bond, for failure to pay the harbor maintenance fee, as provided in such bond.

(2) *Application for relief.* The party shall follow the procedures set forth in part 171 of this chapter in filing an application for relief. Any application to cancel liquidated damages incurred shall be made in accordance with part 172 of this chapter.

(3) *Mitigation.* Any penalty assessed under this provision shall be mitigated in a manner consistent with guidelines relating to cancellation of claims for liquidated damages for late filing of entry summaries. Any liquidated damages assessed under this provision shall be mitigated in a manner consistent with guidelines published by the authority of the Commissioner of Customs for cancellation of claims for untimely payment of estimated duties, taxes and charges.

(i) *Privacy Act notice.* Whenever an identification number is requested on the summary sheets provided for in paragraph (e) of this section, the disclosure of the social security number is mandatory when an internal revenue service number is not disclosed. Identification numbers are solicited under the authority of Executive Order 9397 and Pub. L. 99-662. The identification number provides unique identification of the party liable for the payment of

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the harbor maintenance fee. The number will be used to compare the information on the summary sheets with information submitted to the government on other forms required in the course of shipping or importing merchandise, which contain the identification number, *e.g.*, Vessel Operation Report, to verify that the information submitted is accurate and current. Failure to disclose an identification number may cause a penalty pursuant to paragraph (h) of this section. The above information is set forth pursuant to the Privacy Act of 1974 (Pub. L. 93-579).

[T.D. 87-44, 52 FR 10201, Mar. 30, 1987; 52 FR 10970, Apr. 6, 1987, as amended by T.D. 91-44, 56 FR 21446, May 9, 1991; T.D. 92-4, 57 FR 609, Jan. 8, 1992; T.D. 92-7, 57 FR 2457, Jan. 22, 1992; T.D. 93-37, 58 FR 30983, May 28, 1993; T.D. 97-45, 62 FR 30449, June 4, 1997; 62 FR 45157, Aug. 26, 1997; 62 FR 51774, Oct. 3, 1997; T.D. 98-64, 63 FR 40823, July 31, 1998; T.D. 99-64, 64 FR 43266, Aug. 10, 1999; T.D. 00-57, 65 FR 53574, Sept. 5, 2000; T.D. 01-25, 66 FR 16857, Mar. 28, 2001; T.D. 01-34, 66 FR 21086, Apr. 27, 2001; T.D. 01-46, 66 FR 34818, July 2, 2001; T.D. 02-24, 67 FR 31953, May 13, 2002]

§ 24.25 Statement processing and Automated Clearinghouse.

(a) *Description.* Statement processing is a voluntary automated program for participants in the Automated Broker Interface (ABI), allowing the grouping of entry/entry summaries and entry summaries on a daily basis. The related duties, taxes, fees, and interest may be paid with a single payment. The preferred method of payment is by Automated Clearinghouse (ACH) debit or ACH credit, except where the importer of record has provided a separate check payable to the "U.S. Customs Service" for Customs charges (duties, taxes, or other debts owed Customs (see § 111.29(b) of this chapter)). A particular statement payment must be accomplished entirely through ACH or completely by check or cash. A mixing of payment methods for a single statement will not be accepted. ACH debit (see paragraph (b)(2) of this section) is an arrangement in which the filer electronically provides payment authorization for the Treasury-designated ACH processor to perform an electronic debit to the payer's bank account; ACH credit is described in § 24.26. The pay-

ment amount will then be automatically credited to the account of the Department of the Treasury. If a filer chooses to use statement processing for entries of quota-class merchandise and other special classes of merchandise designated by Customs Headquarters under § 142.13(c) of this chapter, he must also use statement processing as a normal course of business for the largest possible portion (see § 24.25(d)) of his eligible non-special class entries; further, he must use the ACH payment mechanism to pay all his ABI statements containing entries for quota-class merchandise. In no circumstance will check or cash be acceptable for payment of ABI statements containing entries for quota-class merchandise.

(b) *How to elect participation*—(1) *Statement processing.* An ABI filer must notify Customs in writing of the intention to utilize statement processing.

(2) *Automated Clearinghouse debit.* If an ABI filer pays his statements through ACH debit, rather than by check, he must provide to Customs the bank routing number and the bank account number for each account from which ACH payments are to be electronically debited. Upon the determination by Customs that the ABI filer has the necessary software to participate and otherwise qualifies to participate in ACH, Customs shall assign a unique identifying payer's unit number to the participant and the Treasury-designated ACH processor. This unique number assigned by Customs will alert the ACH processor as to which bank and account to issue the electronic debit. If a client of a ABI filer opts to pay Customs charges from his own account through an ABI filer, the client must provide directly to Customs the bank transit routing number and the bank account number for each of his accounts from which ACH payments can be electronically debited. Customs will then assign a unique payer's unit number to each of his accounts and provide the assigned unit number directly to the client and the Treasury-designated ACH processor. The client would then provide the appropriate payer's unit number to his broker to pay his statements through ABI. It is the responsibility of the participant to